

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

APR 10 2006

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte MARK W. DAVIS, JOHN MURPHY and PAUL GRANT CARTER

Application No. 09/893,299

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 17, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

The Information Disclosure Statements dated June 27, 2001 and November 9, 2004 were not considered by the Primary Examiner with respect to compliance with the criteria set forth in 37 CFR §§ 1.97 and 1.98. A written communication notifying appellants of the Primary Examiner's decision is required.

Additionally, the appeal brief filed August 18, 2005, did not fully comply with 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(x) *Related proceedings appendix.* An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

A review of the application indicates that the following appropriate section is missing from the appeal brief filed August 18, 2005:

1) "Related proceedings appendix" as set forth in 37 CFR § 41.37(c)(1)(x).

A supplemental appeal brief in compliance with 37 CFR § 41.37 is required. For more information on the Board's new rules see the web page entitled

More Information on the Rules of Practice Before the BPAI, Final Rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

Accordingly, it is

**ORDERED** that the application is electronically returned to the Examiner 1) for consideration of the Information Disclosure Statements filed June 27, 2001 and November 9, 2004; 2) written communication to appellants of such consideration;

3) hold the appeal brief of August 18, 2005 defective; 4) request appellants to file a supplemental appeal brief in compliance with 37 CFR § 41.37; and 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
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Dale M. Shaw  
Program and Resource Administrator  
(571) 272-9797

CC: HAYNES BEFFEL & WOLFELD LLP  
P O BOX 366  
HALF MOON BAY, CA 94019

DMS/lbg